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Aquinas's Natural Law Theory

*Grace does not destroy nature but perfects it.*¹

*They show that the requirements of the law are written on their hearts, their consciences also bearing witness, and their thoughts sometimes accusing them and at other times even defending them.*²

1. Introduction to Aquinas

Thomas Aquinas (1225–1274) was an intellectual and religious revolutionary, living at a time of great philosophical, theological and scientific development. He was a member of the Dominican Friars, which at that time was considered to be a cult, and was taught by one of the greatest intellects of the age, **Albert the Great** (1208–1280). In a nutshell Aquinas wanted to move away from Plato's thinking, which was hugely influential at the time, and instead introduce Aristotelian ideas to science, nature and theology.

Aquinas wrote an *incredible* amount — in fact one of the miracles accredited to him was the amount he wrote! His most famous work is *Summa Theologica* and this runs to some three and half thousand pages and contains many fascinating and profound insights, such as proofs for God's existence. The book remained a fundamental basis for Catholic thinking right up to the 1960s! But do not worry we will only be focusing on a few key ideas! Specifically *books I–II, questions 93–95*.

2. Motivating Natural Law Theory: The Euthyphro Dilemma and Divine Command Theory

The likely answer from a religious person as to *why* we should not steal, or commit adultery is: “because God *forbids* us”; or if we ask *why* we should love our neighbour or give money to charity then the answer is likely to be “because God *commands* it”. Drawing this link between what is right and wrong and

¹ T. Aquinas, *Summa Theologica*, I, I:8, <http://www.summatheologica.info/summa/parts/?p=1>

² T. Aquinas, *Romans*, 2:15.

what God commands and forbids is what is called the *Divine Command Theory* (DCT).

There is a powerful and influential challenge to such an account called the *Euthyphro dilemma* after the challenge was first raised in Plato's *Euthyphro*. The dilemma runs as follows:

Either God commands something is right because it is, *or* it is right because God commands it. If God commands something because it is right, then God's commands do not make it right, His commands only tell us what is right. This means God simply drops out of the picture in terms of *explaining why* something is right.

If on the other hand something is right *because* God commands it then *anything* at all could be right; killing children or setting fire to churches could be morally acceptable. But if a moral theory says this then that looks as if the theory is wrong.

Most theists reject the first option and opt for this second option — that God's commands *make* something right. But they then have to face the problem that it make morality haphazard. This "*arbitrariness problem*" as it is sometimes called, is the reason that many, including Aquinas, give up on the Divine Command Theory.

So for Aquinas what role, if any at all, does God have when it comes to morality? For him, God's commands are there to help us to *come to see* what, as a matter of fact, is right and wrong rather than determine what is right and wrong. That is, Aquinas opts for the first option in the Euthyphro dilemma as stated above. But then this raises the obvious question: if it is not God's commands that make something right and wrong, then what does? Does not God just fall out of the picture? This is where his Natural Law Theory comes in.

3. Natural Law Theory

Aquinas's Natural Law Theory contains four different types of law: *Eternal Law*, *Natural Law*, *Human Law* and *Divine Law*. The way to understand these four laws and how they relate to one another is via the Eternal Law, so we'd better start there...

By "Eternal Law" Aquinas means God's rational purpose and plan for *all* things. And because the Eternal Law is part of God's mind then it has always, and will always, exist. The Eternal Law is not simply something that God decided at some point to write.

Aquinas thinks that *everything* has a purpose and follows a plan. He, like Aristotle, is a teleologist (the Greek term "*telos*" refers to what we might call a purpose, goal, end/or the true final function of an object) (see Chapter 3;

not to be confused with a teleological ethical *theory* such as Utilitarianism) and believes that *every* object has a *telos*; the acorn has the *telos* of growing into an oak; the eye a *telos* of seeing; a rat of eating and reproducing etc. (notice this links to his view on sex, see Chapter 10). If something fulfils its purpose/plan then it is following the Eternal Law.

Aquinas thinks that something is *good* in as far as it fulfils its purpose/plan. This fits with common sense. A “good” eye is one which sees well, an acorn is a good if it grows into a strong oak tree.

But what about humans? Just as a good eye is to see, and a good acorn is to grow then a good human is to...? Is to what? How are we going to finish this sentence? What do you think?

Aquinas thinks that the answer is *reason* and that it is this that makes us distinct from rats and rocks. What is right for me and you as humans is to act according to reason. If we act according to reason then we are partaking in the *Natural Law*.

If we all act according to reason, then we will all agree to some overarching general rules (what Aquinas calls *primary precepts*). These are *absolute* and binding on all rational agents and because of this Aquinas rejects *relativism*.

The first primary precept is that *good is to be pursued and done and evil avoided*. He thinks that this is the guiding principle for all our decision making.

Before unpacking this, it is worth clarifying something about what “law” means. Imagine that we are playing Cluedo and we are trying to work out the identity of the murderer. There are certain rules about how to move around the board, how to deal out cards, how to reveal the murderer etc. These rules are all written down and can be consulted.

However, in playing the game there are other rules that operate which are so obvious that they are neither written down nor spoken. One such rule is that a claim made in the game cannot both be true and false; if it *is* Professor Plum who is the murderer then it cannot be true that it *is not* Professor Plum who is the murderer. These are *internal rules* which *any* rational person can come to recognize by simply thinking and are not external like the other rules — such as you can only have one guess as to the identity of the murderer. When Aquinas talks of Natural Laws, he means internal rules and not external ones.

Natural Law does not generate an external set of rules that are written down for us to consult but rather it generates general rules that any rational agent can come to recognize simply in virtue of being rational. For example, for Aquinas it is not as if we need to check whether we should pursue good and avoid evil, as it is just part of how we already think about things. Aquinas gives some more examples of primary precepts:

1. *Protect and preserve human life.*
2. *Reproduce and educate one's offspring.*
3. *Know and worship God.*
4. *Live in a society.*

These precepts are *primary* because they are true for *all people in all instances* and are consistent with Natural Law.

Aquinas also introduces what he calls the *Human Law* which gives rise to what he calls "*Secondary Precepts*". These might include such things as do not drive above 70mph on a motorway, do not kidnap people, always wear a helmet when riding a bike, do not hack into someone's bank account. Secondary precepts are *not generated by our reason* but rather they are imposed by governments, groups, clubs, societies etc.

It is *not* always morally acceptable to follow secondary precepts. It is only morally acceptable *if* they are consistent with the Natural Law. If they are, then we ought to follow them, if they are not, then we ought not. To see why think through an example.

Consider the secondary precept that "*if you are a woman and you live in Saudi Arabia then you are not allowed to drive*". Aquinas would argue that this secondary precept is practically *irrational* because it treats people differently based on an arbitrary difference (gender). He would reason that if the men in power in Saudi actually really thought hard then they too would recognize that this law is morally wrong. This in turn means that Aquinas would think that *this human law does not fit with the Natural Law*. Hence, it is morally wrong to follow a law that says that men can, and women cannot, drive. So although it is presented as a secondary precept, because it *is not* in accordance with Natural Law, it is what Aquinas calls an *apparent good*. This is in contrast with those secondary precepts which *are* in accordance with the Natural Law and which he calls the *real goods*.

Unlike primary precepts, Aquinas is *not* committed to there being only one set of secondary precepts for all people in all situations. It is consistent with Aquinas's thinking to have a law to drive on the right in the US and on the left in the UK as there is no practical reason to think that there is one correct side of the road on which to drive.

It is clear that on our own we are not very good at discovering primary precepts and consequently Aquinas thinks that what we ought to do is talk and interact with people. To discover our real goods — our secondary precepts which accord with Natural Law — we need to be part of a society. For example, we might think that "treat Christians as secondary citizens" is a

good secondary precept until we talk and live with Christians. The more we can think and talk with others in society the better and it is for this reason that “live in society” is itself a primary precept.

But looking at what we have said already about Natural Laws and primary and secondary precepts, we might think that there is no need for God. If we can learn these primary precepts by rational reflection then God simply drops out of the story (recall the Euthyphro dilemma above).

Just to recap as there are a lot of moving parts to the story. We now have Eternal Law (God's plans/purpose for all things), Natural Laws (our partaking in the Eternal Law which leads to primary precepts), Human Laws (humans making specific laws to capture the truths of the Natural Laws which lead to secondary precepts) and now finally Aquinas introduces the *Divine Law*.

The Divine Law, which is discovered through *revelation*, should be thought of as the Divine equivalent of the Human Law (those discovered through rational reflection and created by people). Divine laws are those that God has, in His grace, seen fit to give us and are those “mysteries”, those rules given by God which we find in scripture; for example, the ten commandments. But why introduce the Divine Law at all? It certainly feels we have enough Laws. Here is a story to illustrate Aquinas's answer.

A number of years ago I was talking to a minister of a church. He told me about an instance where a married man came to ask his advice about whether to finish an affair he was having. The man's reasoning went as follows — “I am having an affair which just feels so right, we are both very much in love and surely God would want what is best for me! How could it be wrong if we are so happy?”

In response, the minister opened the Bible to the Ten Commandments and pointed out the commandment that it says that it is wrong to commit adultery. Case closed. The point of this story is simple. We can be confused and mistaken about what we think we have most reason to do and because of this we need someone who actually knows the mind of God to guide us, and who better to know this than God Himself. This then is precisely what is revealed in the Divine Law.

Or consider another example. We recognize that we find it hard to forgive our friends and nearly always impossible to forgive our enemies. We tell ourselves we have the right to be angry, to bear grudges, etc. Isn't this just human? However, these human reasons are *distortions* of the Eternal Law. We need some guidance when it comes to forgiveness and it is where the Divine Law which tells us that we should forgive others — including our enemies. Following the Human Laws *and* the Divine Laws will help us to fulfil our purposes and plans and be truly happy.

4. Summary of Aquinas's Natural Law Theory

For Aquinas everything has a function (a *telos*) and the good thing(s) to do are those acts that fulfil that function. Some things such as acorns, and eyes, just do that naturally. However, humans are free and hence need guidance to find the right path. That right path is found through *reasoning* and generates the "internal" Natural Law. By following the Natural Law we participate in God's purpose for us in the Eternal Law.

However, the primary precepts that derive from the Natural Law are quite general, such as, *pursue good and shun evil*. So we need to create secondary precepts which can actually guide our day-to-day behaviour. But we are fallible so sometimes we get these secondary precepts wrong, sometimes we get them right. When they are wrong they only reflect our apparent goods. When they are right they reflect our real goods.

Finally, however good we are because we are finite and sinful, we can only get so far with rational reflection. We need some *revealed guidance* and this comes in the form of Divine Law. So to return to the Euthyphro dilemma. God's commands through the Divine Law are ways of *illuminating* what is in fact morally acceptable and *not what determines* what is morally acceptable. Aquinas rejects the Divine Command Theory.

5. Putting this into Practice: The Doctrine of Double Effect (DDE)

Let's consider some examples to show that what we have said so far might actually work. Imagine someone considering suicide. Is this morally acceptable or not? Recall, it is part of the Natural Law to preserve and protect human life. Clearly suicide is not preserving and protecting human life. It is therefore irrational to kill oneself and cannot be part of God's plan for our life; hence it is morally unacceptable.

Imagine that someone is considering having an abortion after becoming pregnant due to rape. The same reasoning is going to apply. We ought to preserve and protect human life and hence an abortion in this case is morally wrong.

However, as we will see, Aquinas thinks that there are *some* instances where it *is* morally acceptable to kill an innocent person and therefore there may be occasions when it is morally acceptable to kill a foetus. But how can this be correct? Will this not violate the primary precept about preserving life? The answer is to understand that for Aquinas, *an action is not just about what we do externally but is also about what we do internally* (i.e. our motivations). With this

distinction he can show that, for example, killing an innocent *can be* morally acceptable.

To make this clear, Aquinas introduces one of his most famous ideas: the “*Doctrine of Double Effect*”. Let’s see how this works.

Imagine a child brought up in a physically, sexually and emotionally abusive family. He is frequently scared for his life and is locked in the house for days at a time. One day when his father is drunk and ready to abuse him again he quickly grabs a kitchen knife and slashes his father’s artery. His father bleeds out and dies in a matter of minutes. Do you think the son did anything wrong?

Many people would say that he did nothing morally wrong and in fact, some might even go as far as to say that he should get a pat on the back for his actions. What about Aquinas? What would he say?

We might think that given the Natural Law to “preserve and protect life” he would say that this action is morally wrong. But, in fact, he would say the son’s action was not morally wrong (Aquinas discusses self-defence in the *Summa Theologica* (II–II, Qu. 64)).

So why is the son killing the father not in direct contradiction with the primary precept? Aquinas asks us to consider the difference between the external act — the fact that the father was killed, and the internal act — the motive.

In our example, the action is one of *self-defence* because of the son’s internal action and because of this, Aquinas would think the killing is morally acceptable. This distinction and conclusion is possible because of Aquinas’s Doctrine of Double Effect which states that if an act fulfils four conditions then it is morally acceptable. If not, then it is not.

1. The first principle is that the act must be a *good* one.
2. The second principle is that the act must come about before the consequences.
3. The third is that the intention must be good.
4. The fourth, it must be for serious reasons.

This is abstract so let’s go back to our example. The act of the son was performed to *save his own life* so that is good — we can tick (1). Moreover, the act to save his life came about first — we can tick (2). The son did not first act to kill his father in order to save his own life. That would be doing evil to bring about good and that is never morally acceptable. The intention of the son was to preserve and protect his life, so the intention was good — tick (3). Finally, the reasons were serious as it was his life or his father’s life — tick (4).

So given that the act meets all four principles, it is in line with the DDE and hence the action is *morally acceptable*, even though it caused someone to die and hence seems contrary to the primary precept of preserving life.

We can draw a contrasting case. Imagine that instead of slashing his father in self-defence, the son *plans* the killing. He works out the best time, the best day and then sets up a trip wire causing his father to fall from his flat window to his death. Does this action meet the four criteria of the DDE? Well, no, because the son's *intention is to kill the father rather than save his own life* — we must put a cross at (3).

We have already seen that suicide is morally impermissible for Aquinas, so does that mean that *any* action you take that leads knowingly to your own death is morally wrong? No. Because even though the external act of your own death is the same, the internal act — the intention — might be different. *An action is judged via the Natural Law both externally and internally.*

Imagine a case where a soldier sees a grenade thrown into her barracks. Knowing that she does not have time to defuse it or throw it away, she throws herself on the grenade. It blows up, killing her but saving other soldiers in her barracks. Is this wrong or right? Aquinas says this is morally acceptable given DDE. If we judge this act *both* internally and externally we'll see why.

The intention — the internal act — was *not* to kill herself even though she could *foresee* that this was certainly what was going to happen. The act itself is good, to save her fellow soldiers (1). The order is right, she is not doing evil so good will happen (2). The intention is good, it is to save her fellow soldiers (3). The reason is serious, it concerns people's lives (4).

Contrast this with a soldier who decides to kill herself by blowing herself up. The intention is not good and hence the DDE does *not* permit this suicidal action.

Finally, imagine that a woman is pregnant and also has inoperable uterine cancer. The doctors have two choices; to take out the uterus and save the mother, but the foetus will die; or leave the foetus to develop and be born healthy, but the woman will die. What would Aquinas say in this instance? Well using the DDE he would say that it is morally *acceptable* to remove the cancer.

The action is to remove the cancer; it has the foreseeable consequences of the foetus dying but that is not what is intended. The action — to remove the cancer — is good (1). The act of removing the cancer comes before the death of the foetus (2). The intention to save the woman's life is also good (3). Finally, the reasons are serious as they are about the life and death of the woman and the foetus (4).

So even though this is a case where the doctor's actions bring about the death of the foetus it would be acceptable for Aquinas through his Natural Law Theory, as is shown via the DDE.

6. Some Thoughts about Natural Law Theory

There are many things we might consider when thinking through Aquinas's Natural Law Theory. There are some obvious problems we could raise, such as the problem about whether or not God exists. If God does not exist then the Eternal Law does not exist and therefore the whole theory comes tumbling down. However, as good philosophers we ought always to operate with a *principle of charity* and grant our opponent is rational and give the strongest possible interpretation of their argument. So, let's assume *for the sake of argument* that God exists. How plausible is Aquinas's theory? There are a number of things that we can pick up on.

Aquinas's theory works on the idea that if something is "natural", that is, if it fulfils its function, then it is morally acceptable, but there are a number of unanswered questions relating to *natural*.

We might ask, why does "natural" matter? We can think of things that are not "natural" but which are perfectly acceptable, and things which *are* natural which are not. For example, wearing clothes, taking medication and body piercing certainly are not natural, but we would not want to say such things are morally wrong.

On the other hand we might consider that violence *is* a natural response to an unfaithful partner, but also think that such violence is morally unacceptable. So it is not true that we can discover what is morally acceptable or not simply by discovering what is natural and what is not.

Put this worry aside. Recall, Aquinas thinks that reproduction is natural and hence reproduction is morally acceptable. This means that sex that *does not* lead to reproduction is morally unacceptable. Notice that Aquinas is not saying that if sex does not lead to pregnancy it is wrong. After all, sometimes the timing is not right. His claim is rather that if there is *no potential* for sex to lead to pregnancy then it is wrong. However, even with this qualification this would mean a whole host of things such as homosexuality and contraception are morally wrong. We might take this as a reason to rethink Aquinas's moral framework (we discuss these apparent problems in more detail in Chapter 10).

There is, though, a more fundamental worry at the heart of this approach (and Aristotle's) to ethics. Namely, they think that *everything* has a goal (*telos*). Now, with some things this might be plausible. Things such as the eye or an acorn have a clear function — to grow, to see — but what about humans? This seems a bit less obvious! Do humans (rather than our individual parts) really have a *telos*? There are certainly some philosophers — such as the existentialists, for example **Simone de Beauvoir** (1908–1986) — who think that there is no such thing as human nature and no such thing as a human function or goal. But if we are unconvinced that humans have a goal, then this whole approach to ethics seems flawed.

Next we might raise questions about DDE. Go back to our example about abortion. For Aquinas it *is* morally acceptable to remove the uterus even if we know that in doing so the foetus will die. What is not morally acceptable is to intend to kill the foetus by removing the uterus. On first reading this seems to make sense; we have an intuitive feel for what DDE is getting at. However, when we consider it in more detail it is far from clear.

Imagine two doctors who (apparently) do exactly the same thing, they both remove the uterus and the foetus dies. The one intends to take out the uterus — in full knowledge that the foetus will die — the other intends to kill the foetus. For the DDE to work in the way that Aquinas understands it, this difference in intention makes the moral difference between the two doctors. However, is there really a moral difference? To put pressure on the answer that there is, ask yourself what you think it means to intend to do something. If the first doctor says “I did not intend to kill the foetus” can we make sense of this? After all, if you asked her “did you know that in taking out the uterus the foetus would die?” she would say “yes, of course”. But if she did this and the foetus died, did not she intend (in some sense) to kill the foetus? So this issue raises some complex question about the nature of the mind, and how we might understand intentions.

Finally, we might wonder how easy it is to work out what actually to do using the Natural Law. We would hope our moral theory gives us direction in living our lives. That, we might think, is precisely the role of a moral theory. But how might it work in this case?

For Aquinas, if we rationally reflect then we arrive at the right way of proceeding. If this is in line with the Natural Law and the Divine Law then it is morally acceptable. If it is out of line, then it is not. The assumption is that the more we think, the more rational we become, the more convergence there will be. We'll all start to have similar views on what is right and wrong. But is this too optimistic? Very often, even after extensive reflection and cool deliberation with friends and colleagues, it is not obvious to us what we as rational agents should do. We all know people we take to be rational, but we disagree with them on moral issues. And even in obviously rational areas such as mathematics, the best mathematicians are not able to agree. We might then be sceptical that as rational agents we will come to be in line with the Natural and Divine Laws.

SUMMARY

Aquinas is an intellectual giant. He wrote an incredible amount covering a vast array of topics. His influence has been immense. His central idea is that humans are created by God to reason — that is our function. Humans do the morally right thing if we act in accordance with reason, and the morally wrong thing if we don't.

Aquinas is an incredibly subtle and complex thinker. For example, his Doctrine of Double Effect makes us to reflect on what we actually mean by “actions”, “intentions” and “consequences”. His work remains much discussed and researched and typically still plays a central role in a Christian Ethics that rejects Divine Command Theory.

COMMON STUDENT MISTAKES

- Thinking that Aquinas is a Divine Command Theorist.
- Thinking that Eternal Law is something that God decided to write.
- Thinking that Natural Laws are laws of science — e.g. law of thermodynamics.
- Thinking that all the “laws” are absolute.
- Thinking that it is always morally required of us to follow secondary precepts.
- Thinking that Aquinas is committed to there being only one set of secondary precepts for all people in all situations.

ISSUES TO CONSIDER

1. If God exists then what — if anything — do you think that has to do with what is right and wrong?
2. We might answer the “arbitrariness” dilemma by citing God's nature. Why might this answer be problematic?

3. What is the Eternal Law?
4. What are Natural Laws and primary precepts?
5. What are Human Laws and secondary precepts?
6. What are Divine Laws?
7. Just as a good eye is to see, and a good acorn is to grow then a good human is to...? Is to what? How are we going to finish this sentence?
8. People often talk about what is “natural”? What do you think they mean by this? How useful is the notion of “natural” in a moral theory?
9. Think of a descriptive claim. Think of a prescriptive claim. Why might it be problematic moving from one to the other?
10. If people thought long enough, do you think there would be convergence on what is morally right and wrong?
11. What is the Doctrine of Double Effect?
12. What is the difference — if anything — between intending to bring about some end and acting where you know your action will bring about that end?

KEY TERMINOLOGY

Apparent goods

A priori

A posteriori

Eternal Law

External acts

Natural Law

Primary precepts

Real goods

Secondary precepts

Internal acts

Doctrine of Double Effect

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